

**Amendments to the Drawings** include 1 attached replacement sheets.

A Replacement Figure is issued for Figure 3, along with an Annotation Sheet for Figure 3 which contains the original drawing.

## REMARKS

Claims 1-24 are pending in the present application. Claims 1-24 have been rejected. Claims 1, 11 and 21 have been amended. Accordingly, claims 1-24 remain pending in the present application.

### Drawings

The Examiner states,

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figure 2, reference character 214 and Figure 3, reference character 304. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. In addition to Replacement Sheets containing the correct drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Applicant herewith provides a Replacement Sheet for Figure 3 to address the Examiner's rejection. In the Annotated Sheet of Figure 3, the reference character 304 is removed in the newly amended Replacement Sheet of Figure 3.

Specification

The specification has been amended to change Figure 2, reference character 212; to Figure 2, reference figure 214.

Claim Rejections under 35 USC § 101

The Examiner states,

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent, a method/process claim must (1) be tied to another statutory class of invention (such as a particular apparatus) (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978), *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (see at least *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972)).

7. A method/process claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Here claims 1-10 fail to meet the above requirements because they are not tied to another statutory class of invention.

8. Nominal recitations of structure in an otherwise ineligible method fail to make the method a statutory process. See *Benson*, 409 U.S. at 71-72. As *Comiskey* recognized, "the mere use of the machine to collect data necessary for application of the mental process may not make the claim patentable subject matter." *Comiskey*, 499 F.3d at 1380 (citing *re Grams*, 888 F.2d 835, 839-40 (Fed. Cir. 1989)). Incidental physical limitations, such as data gathering, field of use limitations, and post-solution activity are not enough to convert an abstract idea into a statutory process. In other words, nominal or token recitations of structure in a method claim do not convert an otherwise ineligible claim into an eligible one.

Applicant has amended claim 1 to address this rejection.

Claim Rejections – 35 USC § 102

The Examiner states,

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:  
A person shall be entitled to a patent unless-

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date for patent in the United States.

10. Claims 1-2, 4-8, 10-12, 14-18 and 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated over Rand et al (US 5,960,414) hereinafter "Rand".

Claims 1 and 11:

Rand as shown discloses a system, program and method for monitoring excess inventory, the system, program and method comprising:

-creating a profile for the commodity (column 2, lines 45-47 and column 3, lines 16-18: which teaches that "requirements are determined" (e.g., creation of a profile) "for each component part" (e.g., a commodity) "over a predetermined period" where "each record in the summarized excess inventory table includes a field for maintaining actual accruals for excess materials for a platform product" (e.g., a commodity). Rand teaches a creation of a profile for the commodity in order to monitor excess inventory);

Rand teaches that historical demand forecast (e.g., "inventory table allows reporting access to historic data", column 3, lines 56-58), current cycle's demand forecasts (e.g., "requirements are determined for each component part over a predetermined period", column 2, lines 45-48) and actual consumption data (e.g., Figure 1, "[c]reate record with consumption notation 17"); where historical demand forecast, current cycle's demand forecasts and actual consumption data (e.g., components of a waterfall template/demand cascade; see spec, page 5, lines 5-8) are recorded in excess inventory table (e.g., "[t]he number of excess components is then recorded in a record for the component part within an excess inventory table", column 2, lines 50-53) in order to monitor excess inventory.

Further, it is noted that the label of a waterfall template/cascade demand merely represents non-functional descriptive material wherein the intended use of the system/method does not alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data and/or intended use of the space planning system. Further, the structural elements remain the same regardless of the specific data and/or intended use of the space planning system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

Rand further discloses:

-and analyzing the profile and the waterfall template to generate an output report (column 2, lines 50-54, column 3, lines 35-36: which teaches that "the MPR data" (e.g. commodity profile and waterfall template) "is used to determine" (e.g. to analyze) "a number of excess component parts. The number of excess components is then recorded in a record for the component part within an excess inventory table" (e.g., an output report). In addition Rand provides "accurate reporting" (e.g., report generation) "of excess material exposure with multiple planning methods");

-wherein the coded report indicates the excess inventory and associated liability for a plurality of liability horizons (column 3, lines 44-53: which teaches that "[f]lexibility in planning cycle (monthly, weekly, daily, etc.)." (e.g., a plurality of liability horizons) "provides for real time identification of excess material on hand and excess material on order (e.g., output report of excess inventory) "an opportunity for a manufacturing

organization to cancel, push out or reschedule orders to avoid procuring material not required" (e.g., associated liability). Rand teaches that the output report indicates the excess inventory and its associated liability in a planning cycle);

Claims 2, 12 and 22:

Rand as shown discloses the following limitation:

-wherein the profile is a liability profile that comprises a plurality of cancellation windows, each of which indicate a level of liability associated with excess inventory existing within each cancellation window (column 3, lines 44-46 and column 5, lines 6-8: which teaches that "[t]he excess inventory system includes an excess inventory detail table 25 and a financially summarized excess inventory data table 26" (e.g., level of liability associated with excess inventory) of each part component. In addition, Rand teaches that during a "[f]lexibility planning cycle (monthly, weekly, daily, etc.)" (e.g., a plurality of cancellation windows) orders are cancelled, push out or rescheduled where it "provides for real time identification of excess material on hand and excess material on order" with the purpose to avoid procuring material not required in a planning cycle.

Claims 4, 14 and 23:

Rand as shown discloses the following limitation:

-wherein the waterfall template represents a number of units ordered over a fixed period (column 4, lines 39-43: which teaches that "[i]n step 13 a check is made to determine if the material has dependent or independent requirements. A dependent requirement is a customer order for a product". Rand teaches a number of units ordered" (e.g., customer order for a product) over a fixed period (e.g., 6 month period));

-and a number of units consumed during the fixed period (Figure 1, which it illustrates a process flow for an excess inventory system where Rand teaches a "[c]reate record with consumption notation 17" (e.g., number of units consumed));

Claims 5 and 15:

-collecting current and past demand forecast data, wherein demand forecast data comprises the number of units ordered on a weekly basis for a cycle comprising a set number of weeks (Figure 1 and column 2, lines 61-65, which it illustrates "Determine forecasted requirements" in a 6 month (e.g., set number of weeks) which is well known in the art that to gather current and past data in order to forecast demand data. In addition Rand teaches that "[t]he forecasting and updating the excess inventory table may be scheduled at any time after the performance of an MRP cycle. For example, this may be done monthly, weekly, daily or even hourly");

-and collecting current and past consumption data, wherein consumption data comprises the number of units consumed during a cycle (Figure 1, which it illustrates a process flow for an excess inventory system where Rand teaches a "[c]reate record with consumption notation 17" (e.g., number of units consumed during a cycle, 6 months). Rand teaches that collecting current and past consumption data during a manufacturing cycle is well known in the art in order to determine excess inventory for a manufacturing process, where the material on hand balances and on order exceeds that period requirement, that material is considered in excess);

Claims 6 and 16:

-utilizing the output report to manage the excess inventory (column 3, lines 16-18: which teaches that "each record in the summarized excess inventory table includes field for maintaining actual accruals for excess materials for a platform product". Rand teaches an output report (e.g., excess inventory table) to manage the excess inventory);

Claims 7 and 17:

-adjusting a future demand forecast to mitigate partially or entirely the liability associated with the excess inventory (column 3, lines 48-51: which teaches that Rand enables "flexibility and scalability to adjust to requirements planning changes" (e.g., future demand forecast), "if the organization alters its planning cycle" in order to mitigate partially the liability associated with the excess inventory);

Claims 8 and 18:

-submitting a hypothetical demand forecast to determine an effect upon the excess inventory and the associated liability (column 4, lines 55-61: which teaches that "[o]nce the excess inventory system has calculated the exact 6 month requirements or estimated the requirements, the excess inventory system performs a calculation (on hand + on order-6 month requirements)" (e.g., an hypothetical demand forecast) "to determine if material purchases exceed material demand for the component part" (e.g., excessive inventory and the associated liability));

Claims 10 and 20:

-validating a claim for the liability associated with the excess inventory (column 8, lines 16-24: which teaches that "[a] user of the excess inventory system can review excess material" (e.g., validating a claim) "using the ad hoc reporting capabilities of excess inventory system and use other features of the excess inventory system to maintain the information in excess inventory system query excess inventory detail table 25 via user input 26 or financially summarized excess inventory data table 29" (e.g., liability associated with the excess inventory) "via user input 31.");

Claim 21:

The limitations of claim 21 encompass substantially the same scope as claim 1. Accordingly, those similar limitations are rejected in substantially the same manner as claim 1, as described above. The following are the limitations of claim 21 that differ from claim 1.

-a processor, a liability management tool coupled to the processor (Figure 3, which is illustrates the operation of strip program" (e.g., liability management tool) and column 8, lines 25-48, which teaches that the strip program calculates stock on hand for each material plus open orders quantities with the purpose to identify excess stocks as well as non-excess material where information is recorded in the excess inventory detail table. It is implicitly disclosed that a program is coupled to a processor in order to be executed by the system);

Claim Rejections – 35 USC § 103

The Examiner states,

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negative by the manner in which the invention was made.

12. Claims 3, 13 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rand et al (US 5,960,414) hereinafter "Rand" as applied to claims 1-2, 4-8, 10-12, 14-18 and 20-23 above in view of Official Notice.

Claims 3 and 13:

Rand teaches that the "strip program 22 calculates the standard material price" (e.g., unit costs) "for material identified as excess inventory" and that the system for monitoring excess inventory determines the requirements for each component part" (e.g., bills-of-material information) over a predetermined period based on the MRP information. (Column 2, lines 45-47 and column 8, lines 36-37).

Rand does not specifically disclose that the cost information including contract terms and conditions. However Examiner takes Official Notice that is well known in the art that an MRP system includes cost information about contract terms and conditions in order to satisfy a manufacturing order based on the client's terms and conditions. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include cost information about contract terms and conditions into Rand's Monitoring Excess Inventory Method and System, because they define how a contract is implemented for a customer organization and they define what is being sold under the contract; the price of the items being sold; how the items are shipped; how orders are paid; how item returns are handled; how orders are approved; and where orders are shipped from.

Claim 24:

The limitations of claim 24 encompass substantially the same scope as claims 3 and 5. Accordingly, those similar invitations are rejected in substantially the same manner as claims 3 and 4, as described above.

13. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rand et al (US 5,960,414) hereinafter "Rand" as applied to claims 1-2, 4-8, 10-12, 14-18 and 20-23 above in view of Weltman, Strategies for Your Business's Excess Inventory, Inc.com, January 2003.

Claims 9 and 19:

Rand does not specifically disclose the following limitation. However Weltman in an analogous art of Business's Excess Inventory for the benefits of strategies for excess inventory (page 1, strategies) as shown, does:

-planning a promotional activity to increase consumption of the commodity (page 1, Mark down slow movers: which teaches that for excess inventory to "offer it for sale" (e.g., a promotional activity) "at a substantially reduced price" which increase consumption of the commodity);

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to plan a promotional activity (e.g., mark down slow movers, donate excess items to charity) as taught by Weltman to improve Rand excess inventory monitoring method, product and system, thereby giving the predictable result of invest money in items (e.g., commodities) with more productive uses and to cut excess inventory, "and gain tax benefits as well". (Weltman page 1, 1<sup>st</sup> ¶).

### Conclusion

Applicant respectfully traverses this rejection.

### Present Invention

A method, system and computer readable medium for managing excess inventory of a commodity is disclosed. The method comprises creating a profile for the commodity, creating a waterfall template for the commodity, and analyzing the profile and the waterfall template to generate an output report, where the output report indicates the excess inventory and associated liability for a plurality of liability horizons, the commodity includes a plurality of components, wherein at least one components are cancellable and at least one of the components are non-cancellable. The cancellable components rely on one of the plurality of liability horizons and the non-cancellable components rely on the manufacturing lead time which is the sum of the number of weeks needed to manufacture and store the commodity and the number of weeks to order the component.

Applicant respectfully submits that none of the references singly or in combination disclose wherein the commodity includes a plurality of components, wherein at least one components are cancellable and at least one of the components are non-cancellable, wherein the cancellable components rely on



one of the plurality of liability horizons and wherein the non-cancellable components rely on the manufacturing lead time which is the sum of the number of weeks needed to manufacture and store the commodity and the number of weeks to order the component, in combination with the other elements of independent claims 1, 11 and 21. This recitation allows for cancellable and noncancellable components that can be managed in an efficient fashion. The cited references neither teach or suggest such a cooperation. Accordingly, Applicant respectfully requests reconsideration and allowance of the claims 1, 11 and 21 as now presented. In addition, claims 2-10, 12-20 and 22-24 are allowable since they depend from allowable base claims as well as being allowable on their own merits.

Accordingly, Applicant respectfully requests reconsideration and allowance of claims 1-24 as now presented. Applicant's attorney believes this application is in condition for allowance. Should any unresolved issues remain, Examiner is invited to call Applicant's attorney at the telephone number indicated below.

Respectfully submitted,

December 17, 2008

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